

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7662

BILL NUMBER: HB 1758

DATE PREPARED: Mar 5, 1999

BILL AMENDED: Mar 3, 1999

SUBJECT: Prepaid funeral services.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill makes various amendments to provisions concerning the payment of funeral expenses, burial services, or merchandise in advance of need. This bill increases from 5% to 10% the transfer fee that may be charged to a successor seller for a contract executed before July 1, 1999.

Effective Date: July 1, 1999.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) Under current law, the seller of a contract must pay a fee into the Preneed Consumer Protection Fund. (The fee is \$2.50 for contracts having a value of less than \$1,000 and \$5 for contracts having a value of \$1,000 or more.) Under the proposal the fee would be paid to a trustee or escrow agent who would forward the fee to be deposited into the fund. The fund currently has a cap of \$1 million. The proposal would increase this cap to \$1.5 million.

The State Board of Funeral and Cemetery Service may assess a fine of not more than \$10,000 for violations. The impact of this provision will depend on the number of violations that occur.

Sellers of prepaid funeral contracts who violate the law commit a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the State General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the State General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the State General Fund.

Explanation of Local Expenditures: A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Professional Licensing Agency.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Michelle Smith, Fiscal Officer, and Charles Hear, Legal Counsel, Professional Licensing Agency, (317) 232-2510 and (317) 232-5954 respectively.